

**AUTHORITY FOR ADVANCE RULING
TAMILNADU ADVANCE RULING AUTHORITY**

PAPJM Buildings, II Floor, No.1, Greams Road, Chennai-6

**PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.**

Members present are:

1. Ms. Manasa Gangotri Kata, I.R.S., Joint Commissioner/Member,
Office of the Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc.,(Agri.), M.B.A., Joint Commissioner (CT) / Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

ORDER No.55 /ARA/2019 Dated 23.12.2019

GSTIN Number, if any / User id		33AESPDI764Q1ZZ
Legal Name of Applicant		Chellasamy Nadar Deivarajan
Trade Name of the Applicant		M/s. Mahalakshmi Store
Registered Address / Address provided while obtaining user id		No: 26/6, Chinthamani Road, Near Keeraithurai Bus Stop, Madurai – 625 001.
Details of Application		Form GST ARA – 001 Application SI.No.24 Dated 25.06.2019
Concerned Officer		State: The Assistant Commissioner(ST), Kamarajar Salai Assessment Circle , Commercial Taxes Building , Dr. SVKS Thangaraj Salai, Madurai – 625 020. Centre: Madurai Commissionerate.
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Factory/Manufacturing
B	Description (in brief)	Manufacturers of Flours of Leguminous Vegetables and Cereals

Issue/s on which advance ruling required	1. Classification of goods and /or services or both. 2. Determination of the liability to pay tax on any goods or services or both
Question(s) on which advance ruling is required	1. Whether the unbranded mixture of flour of pulses and grams i.e. leguminous vegetables and cereal flours fall under the HSN Code 1106 and 1102 respectively though blending of leguminous flour added with very small quantity of rice flour or maize flour (without adding salt or any masala product) fall under exemption as per the circular no 80 dt. 31-12-2018? 2. Clarify the GST Rate for Flour Mixture of Grams, pulses, leguminous vegetable with cereal flour/Rice flour and it's HSN Code?

Note : Any appeal against the advance ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

Shri. Chellasamy Nadar Deivarajan, Proprietor, M/s Mahalakshmi Store 26/6, Chinthamani Road, Near Keeraithurai Bus Stop, Madurai - 625 001. (hereinafter referred to as 'Applicant') is registered under GST vide GSTIN No. 33AESP1764Q1ZZ. The Applicant has preferred an application seeking Advance Ruling on the following Question:

- 1) Whether the unbranded mixture of flour of pulses and grams i.e. leguminous vegetables and cereal flours fall under the HSN Code 1106 and 1102 respectively though blending of leguminous flour added with very small quantity of rice flour or maize flour (without adding salt or any masala product) fall under exemption as per the circular no 80 dt. 31-12-2018?

- 2) Clarify the GST Rate for Flour Mixture of Grams, pulses, leguminous vegetable with cereal flour/Rice flour and it's HSN Code?

The Applicant has submitted the copy of application in Form GST ARA – 01 and submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under Sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated that they manufacture flour of pulses and gram i.e. leguminous vegetables and cereal flour. Their products are sold without having any brand name and claiming exemption after filing disclaimer affidavit which is also mentioned in the packing material. Sometimes meager cereal/rice flour is added to the leguminous flour for preparing dishes. When the dhal, gram, pulses are merely crushed into powder without adding any substances, they are called unbranded flour of the dried leguminous vegetables (HSN Code 1106) and are exempted. Similarly, unbranded cereal flours (rice Flour, Wheat flour, maize flour, etc.,) without having any other substances also fall under exemption category under HSN Code 1102.

2.2 For making savories and snacks, the above mentioned different types of flour are needed by mere blending/mixing. i.e. for a kind of specific category of savories, some portion of pea flour and gram flour were mixed. Sometimes minimum percentages of rice flour or maize flour are mixed for the preparation of savories. Here there is no addition of any chemical or salt or masala power. It is only a mere blending of flour of pulses and cereals. Though the different kinds of flour of pulses and grams are mixed with rice flour or maize flour, it is still called as flour of pulses and grams and there would not be emergence of a commercially distinct and separate commodity. But such blending/mixture of flour of pulses and grams does not have any separate HSN Code and specific entry under the GST Act, which leads to wrong interpretation and misconception on the part of the officer's resultant in to unnecessary levy of tax.

2.3 To avoid such ambiguity, they requested to clarify though some minimum quantity of rice flour and maize flour were added to the gram and peace flour, they would still fall under entry having HSN Code 1106 eligible for exemption. Recently the government has issued circular no.80, dated 31.12.2018 clarifying the product:

Chhatua or Sattu is a mixture of flour of ground pulses and cereals. HSN code 1106 includes the flour, meal and powder made from peas, beans or lentils (dried leguminous vegetables falling under 0713.) Such flour improved

by the addition of very small amounts of additives continues to be classified under HSN Code 1106. In unbranded, it attracts Nil GST (S. No. 78) of notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017) and if branded and packed it attracts 5% GST (S.No. 59 of schedule I of notification No. 1/2017 – Central Taxes (rate) dated 28.06.2017)”.

Further the dictionary meaning of (Wikipedia)

“Sattu is flour from the Indian subcontinent consisting of a mixture of ground pulses and cereals. The dry powder is prepared in various ways as a principal or secondary ingredient of dishes.”

3.1 The applicant was heard in person on 24.07.2019. The applicant appeared and gave a written submission. They stated that they have been supplying gram flour, peas flour, corn flour, rice flour separately. Now, they propose to supply a mixture of these flours. They undertook to submit the ratios in which these flour are going to be sold. They have not yet made any supply for the same. They will submit the specific ratio of each ingredients for which the ruling is sought.

3.2 The Superintendent of CGST & Central Excise, Madurai south Range appeared and filed written submissions of the central jurisdiction authority, the Commissioner of CGST& Central Excise, Madurai.

4. The Central Authority has furnished the following comments:

- Unbranded flour of dhal, gram, pulses of dried leguminous vegetables(HSN Code 1106) and unbranded cereal flours(rice flour, maize flour etc)(HSN Code 1102) are figured in the exemption list as per Notification No. 2/2017-C.T.(Rate) dated 28.06.2017. But blending/mixing of these flours for preparing savories has to be considered as “Preparation of flour” and are to be classified under 1901 of HSN
- HSN 1901 is not covered under Notification No. 2/2017-C.T.(Rate), hence the same is taxable and not exempted. The GST rate for the same is levied @ 18%

5.1 The applicant submitted the following categories of proportionate percentage of various kinds of flour of pulses and grams/cereals resulted into mixture of flours:

Mixture of Flours	Flour of Grams	Flour of Peas	Flour of Maize	Flour of Rice	Flour of Urad
I Type	80%	-	10%	10%	-
II Type	70%	10%	10%	10%	-
III Type	50%	20%	20%	10%	-
IV Type	-	70%	15%	15%	-
V Type	25%	25%	25%	25%	-
VI Type	-	-	-	95%	5%

Further, they stated that at the time of hearing, the CGST officer had mentioned that preparations of flours are to be classified under CTH 1901 and to be taxed at 18%. The said entry mentioned about the food preparation of flour, grouts, meal, starch or malt extract not containing cocoa and also mentioned about the food preparation of goods of heading 0401 to 0404 which are totally not relevant to their products. Their products are only mixture of flour for the preparation of savories and dishes and it do not contain any other product like sugar, salt or any other kind of additives and is not a ready mix product.

5.2 The applicant also submitted purchase bills for 'Gram Dal' (HSN 0713) , 'Canada Yellow peas' (HSN 07131000), Moong Dal' (HSN 0713100) . They are supplying the same under description 'Besan', 'Unbranded' with HSN 1106. They submitted manufacturing process with photos stating that the process involves grinding of pulses, mixing of flours, sieving and the finished product is packed. They submitted sample of packaging material on which "Besan" "ingredients : Gram Dhall 50% ,& Multigrains 50%(Atta, Peas,Flour, Chola Flour, Rice Flour) with 'Mahalakshmi Store' along with 'Shri Mappillai Vinayagar Mark' are affixed.

6. We have carefully considered the various submissions made by the applicant and the comments of the jurisdictional central Tax Officer. The applicant is manufacturer of mixtures of flours of Pulses, grams and cereals in various proportions given in para 5.1 above. They claim that there would not be emergence of a commercially distinct and separate commodity when different kinds of flour of pulses and grams are mixed with rice flour or maize flour, which continue to be called as flour of pulses and grams. The applicant has sought the eligibility of exemption under the HSN Code 1106 and 1102 as per the circular no. 80 dated 31.12.2018 and the applicable GST Rate and the HSN Code.

7.1 The applicant has claimed exemption on the basis of the circular No.80/54/2018 GST, F.No.354/432/2018-TRU, Govt. India, Ministry of Finance, Department of Revenue (Tax Research Unit), dated 31.12.2018 which clarifies that Chhatu or Sattu, which is a mixture of flour of ground pulses and cereals improved by the addition of very small amounts of additive and continued to be classified under HSN 1106, if sold only as unbranded, attracts Nil GST vide Sl.No.78 of Notification No.2/2017-Central Tax (Rate), dated 28.06.2017 and if branded, attracts 5% GST vide Sl.No.59 of Schedule I of Notification No.1/2017-Central Taxes (Rate) dated 28.06.2017. The primary issue to be decided is whether the product of the applicant, a mixture of the flour or flours of Leguminous Vegetables and Cereals as ingredients at specified percentage of composition depending upon the preparation of the desired type of savories falls under HSN code 1106.

7.2 In terms of explanation (iii) and (iv) to Notification No. 1/2017 - Central Tax (Rate) dt. 28-06-2017, tariff heading, sub-heading, heading and chapter shall mean respectively a tariff item, sub-heading, heading and chapter as specified in the First Schedule to the Customs Tariff Act, 1975 and the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall be applied for the interpretation and classification of goods.

7.3 **Chapter 11** covers *Products of the milling industry; malt; starches; inulin; wheat gluten*

General notes to HSN explanatory notes of chapter 11 states :

This Chapter includes :

- (1) Products from the milling of the cereals of Chapter 10 and of sweet corn of Chapter 7, **other than** milling residues of heading 23.02. In this context, the products from the milling of wheat, rye, barley, oats, maize (corn) (including whole cobs ground with or without their husks), grain sorghum, rice and buckwheat falling in this Chapter are to be distinguished from the residues of heading 23.02 in accordance with the criteria as to starch and ash content laid down in Chapter Note 2 (A).

Within the Chapter, as regards the cereals mentioned by name above, the flours of heading 11.01 or 11.02 are to be distinguished from the products of heading 11.03 or 11.04 in accordance with the criterion as to passage through a sieve laid down in Chapter Note 2 (B). At the same time, all cereal groats and meal of heading 11.03 must fulfil the relevant criterion as to passage through a sieve laid down in Chapter Note 3.

- (2) Products also obtained from the cereals of Chapter 10 by submitting them to the processes provided for in the various headings of the Chapter, such as malting or the extraction of starch or wheat gluten.
- (3) Products obtained by submitting raw materials of other Chapters (dried leguminous vegetables, potatoes, fruit, etc.) to processes similar to those indicated in paragraph (1) or (2) above.

This Chapter **excludes, inter alia** :

- (a) Roasted malt put up as coffee substitutes (heading 09.01 or 21.01).
- (b) Cereal husks (heading 12.13).
- (c) Prepared flours, groats, meals or starches of heading 19.01.

It is seen from the above that chapter 11 covers products obtained from milling of cereals, dried leguminous vegetables, potatoes, fruits etc. The further classification depends on the raw materials and the fineness of the products .i.e flour vs groats or meals when passed through sieve. It specifically excluded prepared flours of heading 1901.

CTH 1102 :

1102	CEREAL FLOURS OTHER THAN THAT OF WHEAT OR MESLIN
1102 20 00	- Maize (corn) flour
1102 90	- Other :
1102 90 10	--- Rye flour
1102 90 90	--- Other

HSN Explanatory notes to CTH 1102 states:

11.02 - Cereal flours other than of wheat or meslin.

1102.20 - Maize (corn) flour

1102.90 - Other

This heading covers flours (i.e., the pulverised products obtained by milling the cereals of Chapter 10) **other than** flours of wheat or meslin.

Products of the milling of rye, barley, oats, maize (corn) (including whole cobs ground with or without their husks) grain sorghum, rice or buckwheat are classified in this heading as flours if they fulfil the requirements as to starch content and ash content set out in paragraph (A) of Chapter Note 2 (see General Explanatory Note) and comply with the criterion of passage through a standard sieve as required by paragraph (B) of that Note.

Flours of this heading may be improved by the addition of very small quantities of mineral phosphates, anti-oxidants, emulsifiers, vitamins or prepared baking powders (self-raising flour).

The heading also covers "swelling" (pregelatinised) flours which have been heat treated to pregelatinise the starch. They are used for making preparations of heading 19.01, bakery improvers or animal feeds or in certain industries such as the textile or paper industries or in metallurgy (for the preparation of foundry core binders).

Flours which have been further processed or had other substances added with a view to their use as food preparations are **excluded** (generally **heading 19.01**).

It is seen that CTH 1102 covers flours which are pulverized products obtained by milling the cereals other than wheat or meslin including rice, maize etc. However, flours which are further processed or had substances added with a view to use as food preparation are excluded and classified under CTH 1901.

CTH 1106:

1106	FLOUR, MEAL AND POWDER OF THE DRIED LEGUMINOUS VEGETABLES OF HEADING 0713, OF SAGO OR OF ROOTS OR TUBERS OF HEADING 0714 OR OF THE PRODUCTS OF CHAPTER 8	
1106 10	- Of the dried leguminous vegetables of heading 0713	
1106 10 10	--- Guar Meal	1
1106 10 90	--- Others	1

The relevant explanatory notes as per the HSN is as below:

11.06 - Flour, meal and powder of the dried leguminous vegetables of heading 07.13, of sago or of roots or tubers of heading 07.14 or of the products of Chapter 8.

1106.10 - Of the dried leguminous vegetables of heading 07.13

1106.20 - Of sago or of roots or tubers of heading 07.14

1106.30 - Of the products of Chapter 8

(A) Flour, meal and powder of the dried leguminous vegetables of heading 07.13.

This heading includes the flour, meal and powder made from peas, beans or lentils; they are mainly used for prepared soups or purées.

The heading **does not cover** :

(a) Non-defatted soya flour (**heading 12.08**).

(b) Locust bean flour (**heading 12.12**).

(c) Soups and broths (whether in liquid, solid or powder form), with a basis of vegetable flours or meals (**heading 21.04**).

Products of this heading may be improved by the addition of very small amounts of anti-oxidants or emulsifiers.

It is seen from above that products obtained from milling of dried leguminous vegetable including peas, lentils are covered under CTH 1106 and by milling of cereals under CTH 1102. The applicant submitted that the product at hand is manufactured by grinding of pulses, mixing of flours, sieving and the finished product is packed. The flour of grams, peas, rice, maize and urad dal are mixed in various proportions and packed. There is no addition of salt, spices etc nor of any further processing of the flours. As seen in the explanatory notes to chapter 11 above, flours of cereals and flours of dried leguminous vegetable and lentils are classified under chapter 11 if they are obtained only by milling of these raw materials and no further processing has taken place and no addition of other substances with a view for their use as food preparations. If that was the case, they would be classified under CTH 1901 and such products are excluded from chapter 11. Explanatory notes to chapter 1901 also states that it covers food preparations

with a basis of flour or meal or starch or malt extract where other substances may be added to main ingredients such as milk , sugar , eggs fat , oil etc. Unprocessed flour obtained only by milling and sieving of cereals, dried leguminous vegetable including peas, lentils etc are to be classified under chapter 11 alone. In the instant case, the product has a mixture of various flours such that multiple tariffs are involved i.e CTH 1102 and CTH 1106. Rule 3 of the General Rules For The Interpretation Of Import Tariff states

3. When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows: (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods. (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable. (c) When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

As per Rule 3(b), mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable. In the product of Type I, II , III and IV above, the proportion of flours of grams and peas are together more than the flours of rice and maize i.e. 80% , 80%, 70% and 70% respectively. This gives these products the essential characteristics of flours of dried leguminous vegetables and lentils i.e classified under CTH 11061090. In Type VI, the proportion of rice flour is 95% and hence it has the characteristics of flour of cereal and hence classified under CTH 11029090.

In the case of Type V, there is equal proportion of flour of cereals (25 % rice and 25% maize) and dried leguminous vegetable (25% gram and 25% peas). In this case, Rule 3(c) is applicable i.e When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Accordingly, Type V product is to be classified under CTH 11061090.

8. Having decided the classification, the applicable rate of tax is dependent on whether the applicant is using a registered brand name which is defined in Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 as the brand name or trade name, that is to say, a name or a mark, such as symbol, monogram, label, signature or invented word or writing which is registered under the Trade Marks Act, 1999. It is seen from the packaging that the applicant is packing in unit containers and affixing 'Shri Mappillai Vinayagar Mark'. It is not submitted by the applicant whether this is a mark registered under Trade Marks Act, 1999. The rate of tax will depend on this.

If the products are packed with such a registered Trade Mark in unit containers, the rate of tax will be :

Type I, II, III, IV and V (CTH 11061090)- 2.5% CGST as per Sl.No. 59 of Schedule I of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 as amended and 2.5% SGST as per Sl.No. 59 of Schedule I of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended

Type VI (CTH 11029090) : 2.5% CGST as per Sl.No. 55 of Schedule I of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 as amended and 2.5% SGST as per Sl.No. 55 of Schedule I of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended.

If the products are packed without a registered brand name , the rate of tax will be :

Type I, II, III, IV and V (CTH 11061090)- nil CGST as per Sl.No. 78 of Notification No. 2/2017-C.T.(Rate) dated 28.06.2017 as amended and nil SGST as per Sl.No. 78 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.

Type VI (CTH 11029090) : nil CGST as per Sl.No. 74 of the Notification No. 2/2017-C.T.(Rate) dated 28.06.2017 as amended and nil SGST as per Sl.No.

74 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.

9. In view of the foregoing discussions, we rule as under:

Ruling

- 1) The product of the applicant are classifiable as under :

- Type I (Flour of Grams-80%, Flour of Maize-10% and Flour of rice-10%)- CTH 11061090;
- Type II (Flour of Grams-70%, Flour of Peas-10%, Flour of Maize-10% and Flour of Rice-10%) - CTH 11061090;
- Type III (Flour of Grams-50%, flour of Peas-20%, Flour of Maize-20% and Flour of Rice-10%) - CTH 11061090
- Type IV(Flour of Peas-70%, Flour of Maize-15% and Flour of Rice-15%) - CTH 11061090
- Type V (Flour of Grams-25%, Flour of Peas-25%, Flour of Maize-25% and Flour of Rice-25%)- CTH 11061090
- Type VI (Flour of Rice-95% and Flour of Urad-5%) - CTH 11029090

- 2) The applicable rate of tax is :

- a. If the products are packed with such a registered Trade Mark in unit containers, the rate of tax will be :

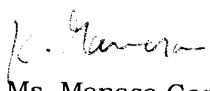
- i. Type I, II, III, IV and V (CTH 11061090)- 2.5% CGST as per Sl.No. 59 of Schedule I of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 as amended and 2.5% SGST as per Sl.No. 59 of Schedule I of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended
- ii. Type VI (CTH 11029090) : 2.5% CGST as per Sl.No. 55 of Schedule I of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 as amended and 2.5% SGST as per Sl.No. 55 of Schedule I of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended.

- b. If the products are packed without a registered brand name , the rate of tax will be:

- i. Type I, II, III, IV and V (CTH 11061090)- nil CGST as per Sl.No. 78 of the Notification No. 2/2017-C.T.(Rate) dated 28.06.2017

as amended and nil SGST as per Sl.No. 78 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.

- ii. Type VI (CTH 11029090) : nil CGST as per Sl.No. 74 of the Notification No. 2/2017-C.T.(Rate) dated 28.06.2017 as amended and nil SGST as per Sl.No. 74 of Notification No.II(2)/CTR/532(d-5)/2017 vide G.O. (Ms) No. 63 dated 29.06.2017 as amended.

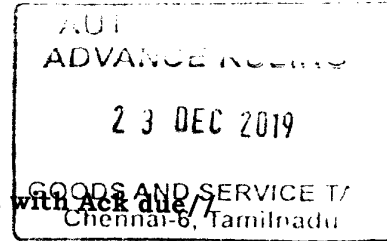

Ms. Manasa Gangotri Kata,
Member, CGST


Shri. Kurinji Selvaan.V.S.,
Member, TNGST

To

M/s. Mahalakshmi Store
26/6, Chinthamani Road,
Near Keeraithurai Bus Stop,
Madurai – 625 001.

// By Speed Post with Ack due //



Copy submitted to :-

1. The Principal Chief Commissioner of CGST & Central Excise,
No. 26/1, Uthamar Mahatma Gandhi Road, Nungambakkam, Ch – 600 034.
2. The Additional Chief Secretary / Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk, Chennai – 600 005.

Copy to:

3. The Commissioner of GST & Central Excise.,
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4. The Assistant Commissioner (ST)
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5. Master/ Spare